

REMARKS

Claims 3, 5, 6 and 8-17 are pending. All of the pending claims are rejected. Applicants appreciate that they were completely successful in overcoming the rejection under 35 USC §103 over the prior art, Safar *et al.*, *Protein Science*, 1993, 2:2206-2216 in view of Coustou *et al.*, *PNAS* (1997), Glover *et al.*, *Cell* (1997) or Wickner, *Science* (1994) as well as the rejections under 35 USC §112, second paragraph with the last Amendment and Response and accompanying Declaration submitted on September 28, 2009.

Applicants herein amend claims 3 and 5 to specify that the method is for “evaluating the efficiency of a sterilization process on *yeast* prion proteins. No issue of new matter arises from this change as express support may be found throughout the specification as the Examiner acknowledges in the last Office Action.

Rejection under 35 USC 112, first paragraph

The Examiner now rejects claims 3, 5, 6 and 8-17 as allegedly not properly enabled by the specification. This is an entirely new rejection not previously raised. The Examiner appears to focus largely on semantics. In the last Amendment and Response and accompanying Declaration, Applicants used the term “yeast prion proteins” and did not use the term “yeast prion-like proteins” at all. Applicants refer to the specification noting that the term “yeast prion-like proteins” occurs in paragraph [0003] as follows: “Sup35 protein....is a prion-like protein.” According to the Examiner, the specification does not provide any evidence that “yeast prion-like proteins” would behave the same way as mammalian prion proteins upon sterilization treatment (i.e. degradation).

In the interest of advancing prosecution and securing rapid allowance of the claims, Applicants herein change the claims to recite a method of evaluating the efficiency of a sterilization process on yeast prion proteins. Applicants submit that this change renders any enablement issue moot. However, Applicants do not acquiesce that the rejection is proper and expressly reserve the right to prosecute claims identical to or similar to the claims pending before the instant Amendment.

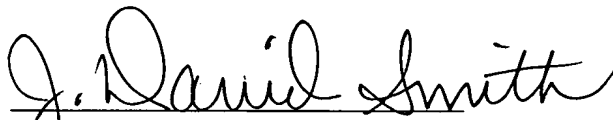
FEES

No additional fees are believed to be necessary. However, if any additional fees are due, authorization is hereby given to charge Deposit Account No. 11-1153 for any underpayment.

CONCLUSION

Applicants respectfully request entry of the foregoing amendments and remarks in the file of the instant application. Early and favorable action in the form of a Notice of Allowance is earnestly solicited. If any issues remain, they may be resolved by telephone, the Examiner is invited to contact the undersigned at the telephone number provided below.

Respectfully submitted,

A handwritten signature in cursive script that reads "J. David Smith". The signature is written in dark ink and is positioned above the printed name and title.

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